

### REMARKS

Claims 1-27 are pending. Claim 29 is hereby canceled without prejudice or disclaimer. Claims 1 and 21 have been amended. The Office Action stated that the American Inventors Protection Act of 1999 (AIPA) does not apply. Applicant submits that the AIPA should apply since the application was filed after November 29, 2000 and scheduled to be published on December 19, 2002. In the Office Action, Claim 29 was rejected under 35 USC § 102(e) as allegedly anticipated by U.S. Patent Application Publication No. US 2001/0039781 (Oh). Claims 1-4, 8-16, and 18-25 were rejected under 35 USC § 103(a) as allegedly unpatentable over Oh in view of U.S. patent No. 3,679,531 (Wienand). Claims 5-7 and 17 were rejected under 35 USC § 103(a) as allegedly unpatentable over Oh in view of Wienand and further in view of U.S. Patent No. 6,035,928 (Ruppel). Claims 26 and 27 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Oh.

Claim 29 is hereby canceled, without prejudice or disclaimer, thereby obviating the rejection.

The arguments made previously with respect to Oh are repeated and incorporated by reference herein.

Applicant traverses the combination of Oh and Wienand as a basis of rejection and submits that the combination is improper. It is not proper to engage in a hindsight reconstruction of the claimed invention using the Applicant's structure as a template and selecting elements from references to fill in the gaps. Applicant submits that the combination of Oh and Wienand is based on impermissible hindsight. Furthermore, it is well settled that prior art may not be gathered with the claimed invention in mind. See, *Patentec, Inc. v. Graphic Controls Corp.*, 776 F.2d 309, 227 USPQ 766 (Fed. Cir. 1985). Applicant also submits that even though the combination of Oh and Wienand is improper, the combination fails to render the pending claims unpatentable.

The aspect of the present invention, set forth in independent Claim 1 is directed to a floor tile that includes a flat, elongated polmeric base, with a solid cross section, having a top surface, a bottom surface, a distal end and a proximal end. A longitudinal axis is disposed between and substantially parallel to the side planes. A plurality of longitudinally spaced stepped edges are formed on each of the distal and proximal ends of the base, each of the plurality of stepped edges is formed by adjoining longitudinal and transverse edge portions. The longitudinal edge portion of one edge lying in a longitudinal plane inward of one of the side planes and extending substantially parallel thereto and the transverse edge portion of the one edge extending toward a base side to join a longitudinal edge portion of another one of the stepped edges.

As understood by Applicant, Oh relates to a waterproofing system for concrete slabs of a flat roof. Hollow plastic panels of designed size, different thickness and a tongue-and-groove joint are covered by a supplementary waterproofing layer using sheet membrane materials such as asphalt sheet, metal sheet and other sheets on the vertical surface. The waterproofing layer permits drainage of stagnant water.

As understood by Applicant, Wienand relates to a shaped section of thermoplastic synthetic material containing at least one tongue portion and at least one groove portion for mutual joining or for further joining the section with similarly shaped sections containing identical tongue and groove portions.

Applicant submits that nothing has been found in Oh or Wienand, taken alone or in combination, that would teach or suggest a plurality of stepped edges that are formed on each of the distal and proximal ends of the base, as recited in Claim 1. Furthermore, Applicant submits that nothing has been found in Oh or Wienand, taken alone or in combination, that would teach or suggest that each of the plurality of stepped edges are formed by adjoining longitudinal and

transverse edge portions, the longitudinal edge portion of one edge lying in a longitudinal plane inward of one of the side planes and extending substantially parallel and the transverse edge portion of the one edge extending toward a base side to join a longitudinal edge portion of another one of the stepped edges, as recited in independent Claim 1. Finally, Applicant submits that one of ordinary skill in the art would not be motivated to combine Oh and Wienand since Oh specifically teaches that the base is hollow to improve insulation performance, to make the panel lightweight and rigid. (See Oh, paragraph 0036) Thus, Oh teaches away from a solid panel, as claimed in Applicant's Claim 1. For all of the reasons stated above, Applicant submits that Claim 1 is allowable.

Independent Claim 21 is directed to a floor tile assembly that includes a plurality of mutually adjacent tiles mechanically interlocked along the sides for adhesive-free mounting to a surface. Each of the tiles includes an elongated base of substantially solid rectangular cross-section of substantially equal width and having a longitudinal axis, a top and bottom surface and first and second substantially linear peripheral edges that form substantially straight borders. A pair of open-sided interlock structures are molded in the base extending parallel to and adjacent to different ones of the first and second edges. The open side of the interlock structure adjacent the first side edge facing the bottom surface is disposed to engage a mating interlock structure of another adjacent tile from the top of the base. A plurality of transverse stepped end surfaces are formed on opposite ends of the base whereby the base edges are staggered in the longitudinal direction.

Applicant submits that nothing has been found in Oh or Wienand, taken alone or in combination, that would teach or suggest a plurality of transverse stepped end surfaces that are formed on opposite ends of the base whereby the base edges are staggered in the longitudinal direction, as recited in independent Claim 21. Additionally, as stated above, Oh teaches away from a

solid base and thus, there is no motivation to combine Oh with Wienand. Therefore, Applicant submits that Claim 21 is allowable.

Independent Claim 26 relates to a floor tile molded of polymeric material that includes a plurality of flat, elongated tile sections of substantially equal length. Each of the plurality of tile sections has adjoining top surfaces of generally rectangular shape. The plurality of tile sections are joined in a parallel longitudinally staggered relationship to simulate the staggering of abutting elongated boards in a wooden floor installation. A decorative layer on the top surface simulates a wood grain in each tile section. A matable interlock portion formed on the edges of the sections mechanically interlock the tile to similarly staggered tiles having matable interlock portions thereon.

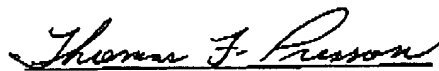
Applicant submits that nothing has been found in Oh that would teach or suggest that the plurality of tile sections are joined in a parallel longitudinally staggered relationship to simulate the staggering of abutting elongated boards in a wooden floor installation, as recited in Claim 26. Therefore, Applicant submits that Claim 26 is allowable.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests entry of this Amendment, since it does not require further search or consideration, and favorable reconsideration of the present application.

Applicant's attorney may be reached by telephone at (203) 924-3845. All correspondence should continue to be directed to the below-listed address.

Respectfully submitted,



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